

Notice of Allowability

Application No.

10/830,196

Examiner

William L. Miller

Applicant(s)

MCGOVERN ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment received 11-17-2005.
2. ☒ The allowed claim(s) is/are 1-11 and 14-17.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 11012005
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Interview Summary (PTO-413), Paper No./Mail Date 01312006.
- ☒ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Guy Yale on 01-31-2006.

The application has been amended as follows:

In the claims:

Claim 1, line 6, after "tip" insert --end--;

Cancel claims 12-13;

Claim 14, line 7, delete both recitations of "threaded";

Claim 14, line 8, delete "threaded";

Claim 14, line 9, delete "threaded";

Claim 14, lines 10-12, change "said upper threaded portion having a greater cross-section than said lower threaded portion" to --said upper portion having a first cross-section with a first diameter, said lower portion having a second cross-section with a second diameter which is less than said first diameter--;

Claim 14, line 12, before "threads" insert --having--;

Claim 14, line 14, before "threads" insert --having--;

Claim 16, line 5, delete "threaded";

Claim 16, line 6, delete “threaded” and before “cross-“ insert --first--;

Claim 16, line 7, change “greater than a cross-section of the lower portion” to --with a first diameter, said lower portion having a second cross-section with a second diameter which is less than said first diameter, said upper portion and said lower portion having threads--; and

Claim 16, line 8, after “threads” insert --per unit of length--.

2. The following is an examiner’s statement of reasons for allowance: Regarding claim 1, Craven (US#6666638) represents the closest prior art of record. Craven discloses a screw and composite lumber assembly comprising: a composite lumber member 82 (col. 1, lines 19-21) having a top surface 85 and an interior of composite material 80; a screw 200 comprising a head with a substantially flat top surface, a shank having a pointed tip end 228 and an upper portion 263 and a lower portion 253; the upper portion having a greater number of threads per unit of length than the lower portion; the upper portion threads being associated with a displaced material from the interior region of the composite lumber material, the displaced material having been displaced by the lower portion threads, the substantially flat top surface of the head and the composite lumber member top surface forming a substantially co-planar interface (see Figs. 11-13). Craven discloses the threads on the upper portion have a greater diameter than the threads on the lower portion, as opposed to the upper portion of the shank having a first cross-section with a first diameter and the lower portion of the shank having a second cross-section with a second diameter which is less than the first diameter. Lavery (US#3861269) discloses a similar screw in Fig. 11 wherein the upper portion 102A of the shank has a first cross-section with a first diameter and the lower portion 102B of the shank has a second cross-section with a second

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diameter which is less than the first diameter. However, Lavery teaches away from using the screw with composite lumber, and rather teaches using the fastener for connecting a metal workpiece to a metal support wherein each have preformed holes (col. 7, lines 24-26).

Rodenhouse Grip Lock also discloses a similar screw wherein the upper portion of the shank has a first cross-section with a first diameter and the lower portion of the shank has a second cross-section with a second diameter which is less than the first diameter as shown in the figure.

However, Rodenhouse teaches away from using the screw with composite lumber, and rather teaches using the fastener for wood, metal, or concrete, with its primary function being to set a cooperating washer to a desired depth. Therefore, it would not have been obvious to one of ordinary skill in the art modify Craven in view of the teachings of Lavery or Rodenhouse such that the shank had a first cross-section with a first diameter and the lower portion of the shank had a second cross-section with a second diameter which was less than the first diameter.

Claims 14 and 16 include the allowable subject matter discussed above and are therefore allowable for at least the same reason(s).

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

4. Applicant's arguments with respect to the instant application being a continuation of the parent application have been fully considered and are persuasive.

5. Applicant's arguments with respect to FR 2,713,291 have been fully considered and are persuasive.

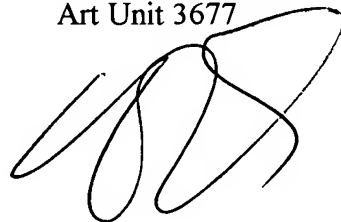
Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is (571) 272-7068. The examiner can normally be reached on Tuesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William L. Miller
Primary Examiner
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A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned below the printed name and title of the examiner.

WLM